

coal or minerals from the premises of another, and prescribe a punishment therefor," was taken up and read second time.

Senator Storey offered the following amendment:

Insert the word, "earth," after the word, "rock," wherever it occurs in the caption or body of the bill.

Adopted.

Senator McLeary offered the following amendment:

After the word, "rock," insert the word, "sand," wherever it occurs in the bill and in the caption.

Adopted.

Senator Smith moved to strike out Section 3.

Adopted.

Senator McLeary moved to strike out the word, "the," in third line of Section 2.

Adopted.

The bill then passed to third reading,

House Bill No. 112, "An Act to amend Articles 540 and 541 of the code of criminal procedure of the State of Texas," was taken up and read second time, together with report of Judiciary Committee No. 1, recommending that the bill do not pass.

Report of committee adopted, and bill lost.

House Bill No. 120, "An Act to fix the amount of jury fees in the District, County and Justices' Courts," was taken up, read second time and passed to third reading.

Substitute for House Bills Nos. 121 and 122, "An Act to amend Section 41, and to repeal Section 42 of an act entitled, 'An Act to amend an act to establish a code of criminal procedure for the State of Texas,' approved August 26, 1856, approved February 15, 1858, and to repeal Section 960 of an act entitled, 'An Act supplementary to and amendatory of an act to establish a code of criminal procedure for the State of Texas,' " approved August 26, 1856, approved November 14, 1864, was taken up and read second time.

Pending the consideration of the bill, on motion of Senator Martin, the Senate adjourned till to-morrow morning at 9 o'clock.

FIFTY-SECOND DAY.

SENATE CHAMBER,
AUSTIN, TEXAS, June 17, 1876. }

Senate met pursuant to adjournment. President *pro tem.* in the chair.
Roll called. Quorum present. Prayer by the Chaplain.

Journal of yesterday adopted.

On motion of Senator McLeary, Senator Terrell was excused for the day.

On motion of Senator Piner, Senator Smith was granted a leave of absence for three days.

Senator Carroll introduced a bill, entitled: "An Act to authorize and require the State Board of Education to invest the proceeds of the sale of University lands, now in the State Treasury, in six per cent. State bonds."

Read by caption, and referred to the Committee on Finance.

Senator McCulloch offered the following resolution:

"Resolved, That no member shall voluntarily absent himself from

the Senate Chamber more than fifteen minutes, without permission of the President, or of the chair, during the business of this body."

Lies over under the rules.

Senator Douglass introduced a bill to be entitled "An Act to amend Sections 10 and 20 of an act entitled, 'An Act to incorporate the Tyler Tap Railroad Company,' " approved December 1st, 1871.

Read by caption, and referred to the Committee on Internal Improvements.

Senator Carroll introduced a bill, entitled: "An Act to authorize the State Board of Education to collect and invest in State bonds the interest due on the bonds belonging to the Agricultural and Mechanical College of Texas."

Read by caption, and referred to the Committee on Finance.

Senator Ford, by leave, presented the following petitions:

A petition of many citizens of Brownsville, Texas, stating that "the election held for city officers in that city, on the fourth of April, 1876, was held under the registration law, and that the registration books had been tampered with and many of the names of legal voters scratched off of said books, and in consequence of these irregularities, and the election being held under an unconstitutional law, they ask for the enacting of a special act enabling the citizens of Brownsville to hold a legal election in said city, and that the thirty days' notice required by the Constitution has been complied with," etc., accompanied with all the necessary evidence.

Referred to the Committee on Privileges and Elections.

A petition of numerous citizens of Webb county, asking that "the third section of the act of November 13, 1871, 'to provide for the payment of the public debt of the State, and requiring that claims for money not presented to the Auditorial Board before the first of January, 1873, should be forever barred,' as they lived remote from the capital, and the holders of small claims against the State had no notice of the act of the Legislature, as required by the acts of November, 1866, and May, 1871, of which this is supplemental, and requesting the appointing of another Auditorial Board to consider such claims as were so barred," etc.

Referred to Judiciary Committee No. 2.

Senator Ford offered the following resolution:

WHEREAS, A number of veterans of the War of Independence, waged against Mexico by the Republic of Texas, did not know of the existence of the law of eighteen hundred and seventy, granting them pensions, as a grateful acknowledgment and appreciation of their services, in sufficient time to have the proofs of service filed with the Comptroller of Public Accounts, and to enable him to act upon their respective claims previous to the repeal of said law; and,

WHEREAS, A small number of veterans did not hear of the passage of said act of eighteen hundred and seventy until it was too late to present their proofs and secure their pensions; therefore, be it

Resolved, That Judiciary Committee No. 2 be instructed to inquire whether, in their opinion, these claims can be recognized as a species of debt against the State of Texas, and whether, under the present Constitution and the laws, any legislation can be had for the relief of those veterans and meritorious claimants, and report by bill or otherwise.

Adopted.

Senator McCulloch offered the following resolution:

Resolved, That after adjournment to-day, the Senate do adjourn to meet on Monday next at 9 o'clock A. M., and after remaining in session four hours, it do adjourn to meet again at 4 o'clock P. M., the same day, and so on every alternate evening, Sundays excepted, until the close of the present session.

Lies over, under the rules.

The President *pro tem.*, after publicly reading its caption, signed Senate Bill No. 18, "An Act to amend an act to amend Article 382, Title 2, Chapter 3 of the penal code, approved Oct. 26, 1866, amendatory of an act entitled, 'An Act to establish the penal code,' approved August 28, 1856.

Senator Stephens, Chairman of the Committee on Engrossed Bills, submitted the following report:

Hon. Wells Thompson, President pro tem. of the Senate:

Your Committee on Engrossed Bills beg leave to report that they have carefully examined and compared the following Senate Bills, to-wit: Senate Bill No. 201, "An Act to authorize the corporation of the city of Houston, to improve and protect the navigation of Buffalo Bayou;" Senate Bill No. 105, "An Act to amend an act entitled, 'An Act to ascertain the amount due the teachers of the public free schools of this State, for services rendered as teachers, prior to the first day of July, 1873, and to provide for the payment of the same,' approved April 27, 1874, and find the same correctly engrossed.

STEPHENS, *Chairman.*

Substitute for House Bills Nos. 121 and 122, "An Act to amend Section 41, and to repeal Section 42 of an act entitled, 'An Act to amend an act to establish a code of criminal procedure for the State of Texas,' approved August 26, 1856, approved February 15, 1858, and to repeal Section 960 of an act entitled, 'An Act supplementary to and amendatory of an act to establish a code of criminal procedure for the State of Texas,' approved August 26, 1856, approved November 14, 1864, being the unfinished business, was taken up and read second time.

The report of the committee, with amendments, adopted.

Senator McLeary offered the following amendment:

In Section 1, strike out, "thirty-five," and insert, "fifty," and strike out the proviso.

Senator Martin offered the following amendment:

Strike out, "thirty-five," and insert, "forty."

As the motion of Senator McLeary contained the largest amount, it was put and carried by the following vote, which defeated the amendment of Senator Martin:

YEAS—Senators Brady, Brown, Carroll, Douglass, Francis, Ford, Guy, Henry J. R., Ledbetter, McLeary, McCormick, McCulloch, Ripetoe, Stephens, Storey—15.

NAYS—Senators Ball, Blassingame, Martin, Moore, Motley, Piner, Thompson, Wortham—8.

NOT VOTING—Senators Henry F. M., Hobby—2.

Senator Piner moved to strike out, "fifty," and insert, "forty-one."

Lost by the following vote:

YEAS—Senators Ball, Blassingame, Henry J. R., Martin, Moore, Motley, Piner, Stephens, Storey, Thompson, Wortham—11.

NAYS—Senators Brady, Brown, Douglass, Francis, Ford, Guy, Ledbetter, McLeary, McCormick, McCulloch, Ripetoe—11.

NOT VOTING—Senators Carroll, Henry F. M., Hobby—3.

A message was received from the House, announcing the passage by that body, of the following bills, to-wit:

House Bill No. 137—"An Act to amend an act entitled, 'An Act to amend Article 11, of an act entitled, 'An Act concerning divorce and alimony,' " approved January 6, 1841, approved May 27, 1873.

House Bill No. 144—"An Act to amend Section 86 of 'An Act to regulate proceedings in the District Courts,' " approved May 13, 1846.

House Bill No. 146—"An Act to prohibit the establishment of lotteries, and the sale of tickets or chances in lotteries, gift enterprises or other evasions involving the lottery principle, and to affix a punishment for a violation of this act."

House Bill No. 151—"An Act to amend Section 2 of 'An Act to better provide for the protection of agricultural interests,' " approved April 23, 1873.

House Bill No. 165—"An Act entitled, 'An Act to amend Article 683 of the code of criminal procedure.' "

House Bill No. 174—"An Act to amend an act entitled, 'An Act prescribing the mode of service in certain cases.' "

House Bill No. 212—"An Act to facilitate commerce and navigation, within the navigable waters of the State of Texas."

That the House refuses to recede from its amendments to Senate Bill No. 26—"To require Clerks of District and County Courts to provide and keep indexes and cross-indexes of the names of the parties to all causes in their courts, and to provide a penalty for their failure to comply with the provisions of this act," and have appointed Representatives Chesley, Rust and Jones of McLennan, a Committee of Conference, and ask a like committee on the part of the Senate.

That the House refuses to recede from its amendment No. 8, to Senate Bill No. 23—"To regulate the appointment and define the duties of Notaries Public," and has receded from its amendments Nos. 1 and 9. The House has appointed Representatives Baker, Martin and Gaston, a Committee of Conference on the part of the House, and ask a like committee on the part of the Senate.

The President *pro tem.* appointed as a Committee of Conference, on the part of the Senate, on Senate Bill No. 26, "To require Clerks of District and County Courts to provide and keep indexes and cross-indexes of the names of the parties to all causes in their courts," Senators McLeary, Ledbetter and Moore.

On Senate Bill No. 23, "To regulate the appointment and define the duties of Notaries Public," he appointed Senators Piner, Guy and McCormick.

House Bill No. 43, "An Act to permit the transfer of certain suits from one court to another," was taken up, read third time and passed.

House Bill No. 100, "An Act to prevent the removal of rock, slate, coal or minerals from the premises of another, and prescribe a punishment therefor," was taken up, read third time and passed.

Senate Bill No. 135, "An Act to make persons liable for damages to the owner for buying stolen property after nightfall," was taken up and read second time.

Senator Ball offered an amendment to strike out, "after nightfall."

Withdrawn.

Senator Wortham, from the Committee on Enrolled Bills, submitted the following report:

Hon. Wells Thompson, President pro tem. of the Senate:

Your Committee on Enrolled Bills have carefully examined, compared and found correctly enrolled, Senate Bill No. 18, entitled, "An Act to amend Article 382 of the criminal code." The same has been properly signed and presented to the Governor this day, at 9:45 o'clock, A. M., for his approval.

WORTHAM, *for the Committee.*

On motion of Senator Piner, the rules were suspended and substitute for Senate Bills Nos. 73, 74 and 86, "An Act to define the duties of County Attorneys and regulate the performance of the same," was taken up, with House amendments, and on motion of Senator McLeary, was referred to Judiciary Committee No. 2.

House Bill No. 120, "An Act to fix the amount of jury fees in the District, County and Justice's Courts," was taken up and read third time.

Senator McLeary offered the following amendment:

Strike out the last three lines of the preamble.

Lost.

The bill then passed by the following vote:

YEAS—Senators Ball, Blassingame, Brady, Brown, Carroll, Ford, Guy, Henry J. R., Hobby, Ledbetter, Martin, McCormick, McCulloch, Moore, Motley, Piner, Ripetoe, Stephens, Storey, Wortham—20.

NAYS—Senators Francis, Henry F. M., McLeary, Thompson—4.

NOT VOTING—Senator Douglass—1.

Senator Ford moved to reconsider the vote just taken.

House Joint Resolution No. 182—"To provide for the survey, condemnation and sale of certain property belonging to the State of Texas," was taken up and read second time.

On motion of Senator Ledbetter, the rules were suspended to place the joint resolution on its third reading, by the following vote:

YEAS—Senators Ball, Blassingame, Brady, Brown, Carroll, Douglass, Ford, Guy, Henry J. R., Henry F. M., Hobby, Ledbetter, Martin, McLeary, McCormick, McCulloch, Moore, Motley, Piner, Stephens, Storey, Thompson, Wortham—23.

NAYS—None.

NOT VOTING—Senators Francis, Ripetoe—2.

Resolution read third time and passed by the following vote:

YEAS—Senators Ball, Blassingame, Brady, Brown, Carroll, Douglass, Francis, Ford, Guy, Henry J. R., Henry F. M., Hobby, Ledbetter, Martin, McLeary, McCormick, McCulloch, Moore, Motley, Piner, Stephens, Storey, Thompson, Wortham—24.

NAYS—None.

NOT VOTING—Senator Ripetoe—1.

Concurrent Resolution of the House, "requiring each standing committee of the Legislature to ascertain at once what bills are necessary to enact the laws required by the Constitution, coming under its respective head," etc., with adverse report from Senate committee, was taken up.

Report of committee adopted and resolution lost.

Senate Bill No. 17, "An Act to regulate the mode of proceedings and

practice in civil causes in the District Courts of the State of Texas," was taken up and read second time.

Senator McLeary moved to indefinitely postpone the bill.

Adopted.

Senate Bill No. 48, "An Act to amend an act entitled, 'An Act to amend Articles 757 and 766 of an act to adopt and establish a penal code for the State of Texas,'" approved November 12, 1866, was taken up, read second time and ordered engrossed.

Senate Bill No. 50, "An Act to amend an act entitled, 'An Act to establish a penal code for the State of Texas,'" approved August 28, 1856, was taken up.

Senator Stephens moved to reject the amendments of the committee.

Pending the further consideration of the bill, the hour for the special order arrived.

A message was received from the House, announcing the passage by that body of the following bill:

House Bill No. 235—"An Act to provide for the payment of the bonds of the State of Texas that will become due, and that are retireable in the years 1876 and 1877, and to make adequate provisions for the floating indebtedness of the State, and to supply deficiencies in the revenue by the sale of the bonds of the State, and to make an appropriation to carry into effect the provisions of the same."

The hour of the special order having arrived, being House Bill No. 88, "An Act to prohibit the sale, exchange or gift of intoxicating liquors in any county, Justices' precinct, city or town in this State, that may so elect, prescribing the mode of election and affixing a punishment for its violation," it was taken up and read first time.

Senator McLeary moved to postpone until this day week at 11 o'clock A. M., and made the special order for that day, and from day to day until disposed of.

Lost by the following vote:

YEAS—Senators Ball, Ford, Ledbetter, McLeary, McCulloch, Storey, Thompson—7.

NAYS—Senators Blassingame, Brady, Brown, Carroll, Douglass, Francis, Guy, Henry J. R., Henry F. M., Hobby, Martin, McCormick, Moore, Motley, Piner, Ripetoe, Stephens, Wortham—18.

Senator McLeary moved the indefinite postponement of the bill, and also a call of the Senate on his motion to postpone.

Call sustained.

Roll called. Senate full.

Senator McLeary withdrew his motion to indefinitely postpone.

Senator F. M. Henry moved that the minority report be adopted as a substitute for the majority report.

Senator McLeary moved the adoption of the majority report.

The President *pro tem.* ruled both the motions out of order, as the bill was only on its first reading.

Senator Piner in the chair.

House Bill No. 97, "An Act to amend an act entitled, 'An Act to prevent the herding of stock on certain lands therein named,'" being a special order for this day, was taken up, read second time and lost.

Senator Wortham offered the following resolution:

Resolved, That the Clerks of committees be required to remain in the

Senate Chamber during the sessions of the Senate, unless otherwise directed by the Chairmen of committees, or the President of the Senate.

Senator McLeary offered an amendment to include all the Clerks.

Adopted.

The resolution was then adopted.

Senate Bill No. 62, "An Act to provide for the public printing," being a special order for the day, was taken up.

Senator McLeary moved that the bill be postponed until Tuesday next at 11 o'clock.

Senator Brady moved to amend by inserting, "Thursday," instead of "Tuesday."

Adopted.

Senator Ball moved to suspend the rule to take up Senate Bill No. 50, "An Act to amend an act entitled, 'An Act to establish a penal code for the State,' approved August 28, 1856.

Lost.

Senate Bill No. 53, "An Act to provide for the payment of State witnesses in felony cases," was taken up and read, together with the substitute of the committee.

Substitute adopted and ordered engrossed.

The President *pro tempore* in the chair.

Senate Bill No. 58, "An Act to amend Section 2 of 'An Act defining the mode of conveying property in which the wife has an interest,' passed April 30, A. D., 1846, so that said Section 2 shall hereafter read as follows," was taken up, read second time and ordered engrossed.

Senate bill No. 55, "An Act for the payment of W. S. Bledsoe, special Judge of the Thirteenth Judicial District," was taken up and read second time.

Report of committee adopted and the bill lost.

Senate Bill No. 59, "An Act to amend Article 5517 of Paschal's Digest, approved August 15, 1870, concerning wills," was taken up and read a second time.

Report of committee adopted and the bill lost.

Senator Douglass, by leave, introduced the following resolution:

Resolved, That the Committee on the General Land Office be requested to examine into the condition of said office, and report to this Senate at as early a day as possible.

Adopted.

Senate Bill No. 60, "An Act to amend the second section of 'An Act better defining the marital rights of parties,' passed March 13, 1848," was taken up, and, on motion of Senator Brady, postponed until next Monday week, and made special order for 11 o'clock of that day.

Senate Bill No. 64, "An Act to validate certificates of acknowledgments of married women to deeds of conveyance, letters of attorney and other written instruments," was taken up and read, together with the substitute of the committee, and the substitute adopted.

On motion of Senator Brady, the bill was postponed until next Monday week, and made special order for that day, immediately after Senate Bill No. 60 is disposed of.

Senator Douglass, by leave, introduced a bill entitled, "An Act to encourage the construction of railroads in Texas by donations of lands."

Referred to Committee on Internal Improvements.

Senator Piner, by leave introduced a bill entitled: "An Act to amend

"An Act to adopt and establish a penal code for the State of Texas," approved August 26, 1856."

Referred to Committee on Stock and Stock Raising.

Senator Storey moved that the rule be suspended, and House Bill No. 235, "An Act to provide for the payment of the bonds of the State of Texas that will become due and that are retirable in the years 1876 and 1877, and to make adequate provision for the floating indebtedness of the State, and to supply deficiencies in the revenue by the sale of bonds of the State, and to make an appropriation to carry into effect the provisions of the same," be taken up.

Carried, and the bill referred to Committee on Finance.

On motion of Senator Storey, Senate Bill No. 212, "An Act for the relief of Moran brothers," was re-committed to Committee on Claims and Accounts.

On motion of Senator Brady, House Bill No. 212, "An Act to facilitate commerce and navigation within the navigable waters of the State of Texas," was referred to Committee on Internal Improvements.

On motion of Senator Brown, the Senate adjourned until Monday morning at 9 o'clock.

FIFTY-THIRD DAY.

SENATE CHAMBER,
AUSTIN, TEXAS, June 19, 1876. }

Senate met pursuant to adjournment. President *pro tem.* in the chair. Roll called. Quorum present. Prayer by the Chaplain.

On motion of Senator Hobby, Senator Brady was excused for three days.

A message was received from the House announcing the passage by that body of House Bill No. 236: "An Act to authorize the United States bonds now in the Treasury to the credit of the permanent school fund, to be disposed of and the proceeds thereof invested in State bonds; likewise to invest in the same manner the funds now in the Treasury to the credit of said fund or that may hereafter be received from all sources."

Senator Martin, from the Committee on Engrossed Bills, submitted the following report:

Hon. Wells Thompson, President pro tem. of the Senate:

Your Committee on Engrossed Bills beg leave to report that they have carefully read and examined Senate Bill No. 119, entitled, "An Act to regulate proceedings in the County Court pertaining to the estates of deceased persons," and find the same correctly engrossed.

MARTIN, *for Committee.*

Senator McLeary, from the Conference Committee, on the part of the Senate, on the differences between the two Houses, on Senate Bill No. 26, submitted the following report:

Hon. Wells Thompson, President pro tem. of the Senate:

Your Conference Committee appointed to confer with a committee on the part of the House, upon the refusal of the House to recede from its amendments to Senate Bill No. 26, "An Act to require the Clerks of the District Courts of the State to provide and keep indexes